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Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples

Special Committee decision of 10 June 2002 concerning Puerto Rico

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I. Introduction

1. At its 6th meeting, on 10 June 2002, the Special Committee adopted resolution A/AC.109/2002/22 on the question of the Special Committee decision of 21 June 2001 concerning Puerto Rico. In paragraph 9 of the resolution, the Special Committee requested the Rapporteur to submit a report to the Special Committee in 2003 on the implementation of the resolution. The present report was prepared by the Rapporteur of the Special Committee in response to that request. It considers Puerto Rico in the light of previous reports prepared by the Rapporteur, recent political and military developments in Puerto Rico and action taken by United Nations bodies on the matter.

II. Background information

A. General

2. Puerto Rico is the most easterly and smallest island of the Greater Antilles, in the Caribbean Sea. It has a land area of 8,959 square kilometres, including the small nearby islands of Vieques, Culebra and Mona. More than three fourths of Puerto Rico is mountainous, and the range that runs its length reaches an elevation of 1,219 metres at its highest point.

3. According to the 2000 census, the population totals 3.81 million. In addition, there are reportedly some 3.4 million Puerto Ricans residing on the mainland of the United States of America.[1] The population is basically Spanish-speaking but often bilingual in English and Spanish. Puerto Rico is one of the most densely populated areas in the world, with an average of 429 people per square kilometre. It is highly urbanized, with the capital, San Juan, accounting for about one third of the population.[2]

4. United States citizenship is granted to people born in Puerto Rico, but they do not have the right to vote in United States presidential or congressional elections unless they reside on the United States mainland. Under the current Commonwealth arrangements, authority over defence, international relations, external trade and monetary matters remains with the United States, while Puerto Rico has autonomy on tax matters, social policies and most local affairs. The main political parties in the Territory differentiate themselves mostly by their position on the ultimate political status of Puerto Rico, none being satisfied with the status quo. The Partido Popular Democrático (PPD), currently in power, favours an enhanced Commonwealth status, under which Puerto Ricans would remain under United States sovereignty and retain United States citizenship but would have greater governmental authority over their own affairs and more latitude to establish regional and international relations. The Partido Nuevo Progresista (PNP) favours Puerto Rico becoming a fully integrated state of the United States. The third party with congressional representation, the Partido Independentista Puertorriqueño (PIP), favours independence for the island.

B. Constitutional and political status

5. Puerto Rico was a Spanish colony from 1508 until 1898, when, at the end of the Spanish-American War, it was ceded to the United States and became a military protectorate. In 1900 the United States Congress replaced the military Government with a civilian one that included a popularly elected legislature, the Cámara de Delegados. In 1917 the Jones Act added a bill of rights and a popularly elected Senate to the governmental machinery. However, the Governor was still appointed by Washington, D.C., and he retained veto power over legislation. The Act also conferred United States citizenship on all Puerto Ricans, although the measure was opposed by the territorial legislative body.

6. In 1948 Puerto Rico's Legislative Assembly passed a law that made it a felony to advocate the forceful destruction or overthrow of the island's Government.[3] Also in 1948, the first popular gubernatorial elections were held, ending the succession of Washington, D.C.-appointed Governors. In 1950 the United States Congress provided for the organization of a constitutional Government by the people of Puerto Rico. The Constitution was approved by the Puerto Ricans in March 1952 and later adopted by the United States Congress, on the condition that some changes be made to the Bill of Rights.[4] The popular referendum and congressional ratification of the Constitution created the Commonwealth, a loose translation of the Spanish term Estado Libre Asociado.

7. The Constitution of the Commonwealth of Puerto Rico is described in detail in paragraphs 91 to 119 of the Rapporteur's report of 1974 (A/AC.109/L.976). In brief, the Government consists of (a) a Governor elected for four years at each general election; (b) a Legislative Assembly comprising two houses — the Senate (27 members) and the House of Representatives (51 members elected by direct vote of the adult population at each general election); and (c) a Supreme Court and lower courts. Puerto Rico is represented in the Government of the United States by a Resident Commissioner, who is a non-voting member of the United States House of Representatives, but a voting member of the committees on which he or she sits. Although it has its own courts, the Puerto Rican legal system is integrated into the United States federal judicial system via the First Circuit Court of Appeals, and federal law prevails over local law.

8. Even after the 1952 establishment of a constitutional Government for Puerto Rico, all laws concerning the Territory's relations with the United States remained in force through the Federal Relations Act (see A/AC.109/L.976, paras. 120-132), under which Puerto Rico was brought within the trade, tariff and monetary systems of the United States. The United States also undertook responsibility for the defence of Puerto Rico. In 1958 Puerto Rico's Legislative Assembly requested changes in the Federal Relations Act. In 1959 three bills requesting changes in the political status of the Territory were submitted to the United States Congress, but no action was taken on any of them. Further, in 1967 a plebiscite was held, offering inhabitants the choice between independence, becoming a part of the United States, or maintaining the Commonwealth status. The latter option was upheld by 60.41 per cent of voters.

9. In 1993 another plebiscite was organized by the incumbent pro-statehood PNP, with virtually identical options to those in the 1967 plebiscite. The results were 48.4 per cent for the status quo (Commonwealth), 46.2 per cent for statehood and 4 per

cent for independence. Following this result, the Legislative Assembly of Puerto Rico requested the United States Congress to decide whether the definition of Commonwealth, as presented on the ballot, was acceptable. Congress replied negatively, arguing that the definition contained expectations that were not viable (see AC.109/1999/L.13, paras. 172-180). The Puerto Rican Legislative Assembly then voted to hold another plebiscite in 1998. In February 1997 the Young Bill was introduced in the United States Congress, seeking to make the results of the proposed 1998 Puerto Rican plebiscite binding for the United States Government. The bill was adopted by the House of Representatives in March 1998, by a one-vote margin of 209 to 208, but it was not acted upon by the Senate before the end of the congressional session and thus expired.

10. Despite the failure of Congress to bind the United States Government to the results, the organization of the 1998 plebiscite continued as scheduled. There was, however, much controversy regarding the wording of the ballot choices. The pro-Commonwealth PPD protested that the ballots, as drafted, misrepresented the Commonwealth status and deliberately sought to confuse its supporters by including another option, "Free Association", whose definition was very similar. PPD insisted that a fifth option, "None of the above", be included on the ballot, and it encouraged its supporters to choose that option. The results of the plebiscite held on 13 December 1998 were as follows: 50.4 per cent for "None of the above", 46.7 per cent for statehood, 2.3 per cent for independence, 0.3 per cent for free association and 0.06 per cent for Commonwealth.

11. After the 1998 plebiscite, United States President William J. Clinton stated that he would work with Congress and Puerto Rico's leaders to clarify the status issue. In December 2000 he issued an official memorandum on the matter (see A/AC.109/2002/L.4, para. 47) which stated, inter alia, the following:

> "Although Puerto Rico was acquired in connection with the Spanish-American War and United States citizenship is granted to persons born on the islands, Puerto Rico's ultimate status has not been determined. Until that issue is resolved, questions remain about how United States economic and social policies should apply to the citizens of Puerto Rico. Further, although our citizens in Puerto Rico have been granted the exercise of authority on local matters similar to that of citizens of a State, they do not have voting representation in the Federal Government.
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> ...
>
> "Much of the debate on the issue concerns what options are available to Puerto Rico, in light of the Constitution and the basic laws and policies of the United States. The elected representatives of the people of Puerto Rico have, therefore, repeatedly petitioned the Federal Government to clarify the islands' status options as well as the process by which Puerto Ricans can determine the islands' future status.
>
> "The United States has a responsibility to answer such questions."
>
> ...

12. President Clinton then established the President's Task Force on Puerto Rico's Status and instructed its Co-Chairs to conduct an ongoing dialogue with the Governor and Resident Commissioner of Puerto Rico, Puerto Rico's major political

parties and other groups that advocated a change in the island's status. The aim of the dialogue was to seek to clarify the options for Puerto Rico's future status and enable Puerto Ricans to choose among those options.

13. In January 2001 a new United States Administration acceded to power. In April 2001 President George W. Bush amended his predecessor's Executive Order on the Task Force on Puerto Rico's Status by extending the deadline for the Task Force's recommendations from 1 May 2001 to 1 August 2001.[5] In March 2002, the Puerto Rican media reported that the White House had released the names of the interim members of the Task Force and added that the list included assistants to almost all the members of President Bush's Cabinet. According to the White House spokesperson quoted by the media, the Task Force was reviewing Puerto Rico's options and the Justice Department was providing guidance on legal and constitutional matters.[6]

III. Recent developments

A. Political

14. The last general elections held in Puerto Rico took place in November 2000. Voters elected the Governor and the delegate to the United States Congress, members of the local Senate and Chamber of Representatives, and candidates for a variety of municipal and local positions. Puerto Ricans did not have the right to vote in United States presidential elections, which were held on the same day.

15. The pro-commonwealth PPD won the elections, taking control of the executive branch and both houses of the legislature from the pro-statehood PNP. The PPD gubernatorial candidate, Sila María Calderón, beat her PNP counterpart by 48.6 per cent to 45.7 and became the first female Governor of Puerto Rico, replacing the PNP incumbent, Pedro Roselló, who had held the post for eight years. The third candidate in the gubernatorial race, Rubén Berrio Martínez of the pro-independence PIP, obtained 5.2 per cent of the vote. This represented the best showing for a PIP candidate since 1988 (when PIP garnered 5.5 per cent in the gubernatorial race), and was significantly above the average for the past 40 years (approximately 4.2 per cent).

16. PPD won a significant majority in the Senate, where it holds 19 seats, against PNP's 8 seats and PIP's 1 seat. Similarly, in the Chamber of Representatives, PPD holds 30 seats, PNP 20 and PIP retains 1.

17. In the elections for the position of Resident Commissioner (Puerto Rico's non-voting representative in the United States Congress) Aníbal Acevedo Vilá of PPD defeated Carlos Romero Barceló, the PNP incumbent, by 49.3 to 45.4 per cent. The PIP candidate for the position won 4.8 per cent of the votes.

18. During 2001, Governor Calderón's first year in office, the two issues that had dominated the 2000 campaign (Puerto Rico's constitutional status and United States military exercises on Vieques) became subordinate to efforts to revive the economy (see paras. 37-40 below) and the fight against corruption. The latter continued in 2002. In January 2002 indictments were issued against 17 former PNP Government officials, including the former Education Secretary and his deputy and the President of the Chamber of Commerce, on charges ranging from theft and extortion to

bribery.[7] In January 2002 Governor Calderón announced measures to stem corruption, including the investigation of all Government agencies that had contracts with individuals and firms accused of fraud, and the creation of a financial ethics committee for electoral campaigns. Subsequently, the opposition raised counter-charges, alleging misuse of public funds by the Governor and her party.[8] On 18 June 2002 the Governor enacted three new laws to fight crime and corruption. In addition, the budget for the 2003 fiscal year included $31 million in additional funds to fight corruption.[9]

19. With respect to the political status of Puerto Rico and its relationship with the United States, during her first two years as Governor, Sila Calderón reiterated on many occasions her belief that any initiative in this regard should emanate from Puerto Rico rather than from Washington, D.C.[10] Thus, rather than engage directly with the Washington Task Force, she continued to defend a proposal she had first made in a June 2000 White House meeting between President Clinton, Puerto Rican political leaders and members of the United States Congress: the creation of a Puerto Rican Unity and Consensus Commission, comprising representatives of the three main parties, two jurists of renown and three private citizens not affiliated with any of the parties, to define the process of determining a future political status. Throughout this time, the proposal was rejected by the pro-statehood PNP, which maintained that any discussion of this nature should be held with the United States authorities.

20. In July 2002, coinciding with the fiftieth anniversary of Puerto Rico's Commonwealth status, the Governor reaffirmed her support for an enhanced Commonwealth status, but she also reiterated the need for Puerto Ricans to be unified on how to proceed before engaging the White House and Congress in any discussion:

> "I have proposed to the nation a mechanism for dialogue on this issue as the first step in a consensual process that would allow us to come as one before Congress and the White House. The failures of the past have taught us that we must unite as Puerto Ricans before we seek to have our voices heard and our demands met. I refuse to exercise unilateral, absolutist power in forcing a decision which is of such importance to every Puerto Rican."[11]

Calderón went on to confirm the creation of the Unity and Consensus Commission, but the President of PNP declined to participate in it, and, thus, the Commission never met.

21. In legislative terms, the debate on political status was brought to the forefront in April 2002, when both the Senate and the Legislative Assembly of Puerto Rico approved resolutions recommending the establishment of a Constituent Assembly (Asamblea de Status del Pueblo Puertorriqueño) as the most viable and appropriate mechanism to determine the island's future status.[12] This recommendation was supported by the PPD, by the pro-independence PIP party, and by entities such as the Colegio de Abogados de Puerto Rico (Puerto Rican Bar Association). However, it was opposed by PNP, which again viewed the proposed mechanism as a futile, unilateral exercise because it did not engage the United States Government from the outset.[13]

22. In February 2003, the Governor announced her decision to postpone indefinitely all efforts to move forward on the status issue due to lack of consensus

among the island's principal political parties. She noted that without a broad Puerto Rican consensus, it was unlikely that there would be favourable climate for the United States Congress to deal with the issue. In spite of this announcement, representatives of the pro-independence PIP stated that they would continue to discuss the status issue and that they expected to meet with the Governor in the near future. On 28 February 2003, a group of 15 Puerto Rican university professors, attorneys and legislative advisers announced the creation of the Committee for the Study of Puerto Rico's Political Future, without the participation of the pro-statehood movement.[14]

23. As described in previous reports, apart from general political questions, three specific issues have been raised before the Special Committee in recent years as resulting from the particular political status of Puerto Rico and its relationship with the United States. These are (a) the continuing United States military presence in Puerto Rico, and particularly on the island of Vieques; (b) the imprisonment in the United States of pro-independence Puerto Ricans accused of seditious conspiracy and weapons possession; and (c) the application of the death penalty to Puerto Ricans convicted on federal charges.

24. As in previous papers, the issue of the United States military presence on Vieques will be dealt with in the section on military developments (see paras. 27-39 below).

25. The issue of the Puerto Ricans accused of seditious conspiracy and weapons possession some 20 years ago and imprisoned in the United States has been covered in previous reports. In essence, a number of Puerto Rican organizations and political and civil leaders have claimed over the years that these are essentially political prisoners and that they received disproportionately long sentences. The issue was partly addressed in August 1999, when President Clinton offered to conditionally release the prisoners if they formally renounced the use of violence. Eleven of the original fifteen prisoners accepted the offer, and a twelfth accepted a bargain by which he would be set free in five years. Supporters of those who were released, however, noted that the conditions include tight controls over their actions and statements, which effectively prevent them from continuing to advocate independence for Puerto Rico. On 10 September 2001 a petition for the early termination of supervision was submitted on behalf of the nine former prisoners still subject to parole conditions. In the aftermath of the events of 11 September 2001, under new rules implemented by the United States Attorney-General, two of the remaining prisoners were placed in punitive segregation, even though it is reported that there was no reason to believe that they had any connection to those events.[15] Two of the prisoners were excarcerated in the past year, Antonio Camacho Negrón in May 2002 and José Solís Jordán in November 2002.[16]

26. The issue of the application of the death penalty to Puerto Ricans convicted of crimes was described in detail in paragraph 23 of the 2000 report (A/AC.109/2000/L.3), as were recent cases in which the death penalty was sought against Puerto Ricans. Despite the fact that the death penalty is prohibited in Puerto Rico, the United States Department of Justice has sought the death penalty for 15 Puerto Rican defendants since 1992, resulting in one of the highest death penalty rates per capita of any state or Territory within the United States. This question is considered particularly contentious given increasing concerns about racial discrimination in the application of the death penalty in the United States and some

recent reports that suggest that a number of innocent people are on death row as a result of hasty trials and incompetent legal counsel. In the cases of Héctor Óscar Acosta Martínez and Joel Rivera Alejandro in July 2000, United States District Court Judge Salvador Casellas ruled that the death penalty for federal crimes did not apply in Puerto Rico because its people had no vote in federal elections. In his ruling, Judge Casellas wrote: "It shocks the conscience to impose the ultimate penalty, death, upon American citizens who are denied the right to participate directly or indirectly in the government that enacts and authorizes the imposition of such punishment."[17] The American Civil Liberties Union strongly supported that decision and noted that it was the first time a United States District Judge had used Puerto Rico's political status to reject the Federal Government's attempt to apply the death penalty there.[18] In June 2001 the United States First Circuit Court of Appeals in Boston rebutted the arguments of Judge Casellas and ruled that the death penalty was applicable to federal crimes committed in Puerto Rico under the established precedent that local government cannot circumvent federal laws.[19] Subsequent efforts by the Puerto Rican Bar Association and other civic organizations to take the matter before the United States Supreme Court failed when the Supreme Court refused to consider the case.[20]

B. Military

27. As has been described in previous reports, Puerto Rico has for many years held an important military-strategic position within the United States Southern Command. In addition to its other military installations in Puerto Rico, since 1941 the United States Navy has operated on the islet of Vieques, which has 9,500 inhabitants and is located eight miles off Puerto Rico's east coast. The Navy owns two thirds of Vieques, an area it has used over the years for ammunition storage, as a target for live bombing and for amphibious training exercises. In April 1999 mounting local tension flared into strong opposition to the Navy's presence after a Puerto Rican was killed and three others were injured when a bomb was dropped on the wrong target in a botched training exercise. There were mass protests on the island, and over the next four years they grew to encompass a broad section of Puerto Rican society calling for the withdrawal of the Navy from Vieques. Details of the military exercises conducted on Vieques during this time, and of the related civil disobedience campaigns, arrests and lawsuits, are to be found in A/AC.109/1999/L.13, paragraphs 18 to 22, A/AC.109/2000/L.3, paragraphs 24 to 30, A/AC.109/2001/L.3, paragraphs 29 to 38, and A/AC.109/2002/L.4, paragraphs 27 to 36.

28. Since the 1999 incident that sparked the protests in Vieques, there have been various political initiatives by the United States Administration and by Puerto Rican representatives to clarify the future of Navy activities on the island. In January 2000 Puerto Rican Governor Roselló and United States President Clinton agreed to a solution according to which a referendum would be held in November 2001 to allow the people of Vieques to decide whether the military should leave forever, or whether it should remain under specific conditions that would include the provision of $50 million for infrastructure and other development. If the Navy was allowed to stay, it would be able to resume using live ammunition. In the meantime, the Navy pledged to provide $40 million in economic aid, regardless of the outcome of the referendum. Subsequently, Vieques became an issue during the Puerto Rican

gubernatorial campaign. In January 2001, when Sila Calderón took office as Governor, she demanded the immediate cessation of military exercises on Vieques and refused to support the Clinton-Roselló agreement, saying that "sixty years of a menace to the health and security of our countrymen" was "unacceptable for any civilized and peaceful society".[21] In late January 2001, just before he left office, President Clinton ordered the Department of Defense to examine a new study that indicated a high incidence of heart disease on Vieques, and requested the Navy to seek an alternate training site.[22] President Clinton's successor, George W. Bush, stated that he would abide by the Clinton-Roselló agreement, which called for a referendum in November 2001. In the meantime, training exercises continued to be held despite local protests.

29. In June 2001, Puerto Rico's legislature approved the holding of a referendum on Vieques that would include a third option, one that would allow residents to vote for the immediate and permanent cessation of the bombing exercises and the withdrawal of the Navy. The measure was approved by the Governor's PDP party and PIP. The pro-statehood PNP voted against it.[23] Two days later, President George W. Bush stated that the use of Vieques for bombing practices must stop. The media quoted the President as saying that the Navy ought to conduct its exercises somewhere else given that some harm had been done to people in the past and that "these are our friends and neighbors and they don't want us there".[24] The White House decision raised a storm of protests among Republicans in the United States Congress, who warned that the loss of Vieques would hurt the military's combat readiness and encourage challenges to other bases. The Chairman of the House Armed Services Committee stated that it was highly improbable that the Navy would be able to find a suitable alternative to Vieques before May 2003 and that he favoured cancelling the November 2001 referendum because "national security policy should not be determined by a local referendum".[25]

30. On 29 July 2001, the non-binding referendum was held on Vieques. The Navy presence was opposed by 68 per cent of the voters, 30 per cent voted for the Navy to stay indefinitely and 1.7 per cent favoured the Navy staying only until 2003. Governor Calderón stated that the people of Vieques had made their decision and had spoken clearly, and announced that she would send the results to the White House and to Congress. The response of the White House was to reiterate that the Navy would withdraw from Vieques, as scheduled, in May 2003 and would continue training with dummy bombs until then.[26]

31. The preparations for the scheduled November 2001 referendum, originally agreed upon by President Clinton and Governor Roselló, gave rise to legal and procedural confusion, given certain inconsistencies between local and federal law. The matter became temporarily moot when the Navy informed Governor Calderón that the planned referendum would be postponed until 25 January 2002. The Governor lamented that the decision to postpone had been taken unilaterally and called for clear federal legislation to ensure the cessation of Navy exercises by May 2003.[27] In December 2001 the House and Senate Armed Services Committees decided to cancel the scheduled referendum on Vieques as part of a cost-cutting bill aimed primarily at closing domestic bases to increase spending on anti-terrorism measures and the missile-defence programme. However, the bill did not mandate a deadline for the cessation of military training on Vieques.[28] In January 2002, when Governor Calderón met with President Bush in Washington, D.C., the President made a commitment to the Governor that the Navy would leave Vieques by May

2003, and a similar commitment was made to the Mayor of Vieques a week later. Delivering her annual address to the Puerto Rican Congress on 12 February 2002, the Governor stated that the commitment to end military training on Vieques was a result of the firmness and resistance of the Puerto Rican people, and she asked for continued political unity to that end.

32. On 1 April 2002 the Navy resumed military exercises on Vieques with dummy bombs. Five women from PIP set foot on Navy property and were arrested. Following the strategy of the civil disobedience campaign, they planned to refuse bail, be charged in federal court and serve jail sentences.[29] On 6 April 2002 the media reported clashes on Vieques between demonstrators and military police at the perimeter of Camp García. According to the reports, the military police used tear gas and the demonstrators (some 150 members of the Coalición Nacional Puertorriqueña de Estados Unidos, who had travelled to Vieques from the United States) responded by throwing stones into the Navy facilities. In addition, two persons, a nun and a priest, were arrested when leaving the restricted area after trying to halt the military exercises.[30] In response, the Puerto Rican Senate approved a resolution censoring the use of force against those who exercised their right to free expression, and a subsequent report by the Puerto Rican Department of Justice concluded that there had been an unnecessary and unjustified abuse of power by the Navy against the demonstrators, in violation of their constitutional rights.[31] The civil disobedience campaign continued throughout the second half of 2002, with numerous arrests of protesters who periodically entered the restricted Navy areas.

33. On 20 October 2002 the Governor announced that she had received official confirmation from the United States Government that the Navy's activities in Vieques would cease in May 2003, as President Bush had stated earlier in the year. In an official communiqué she commended the tireless work of Vieques residents, the numerous representatives of political parties and civil society and the many supporters in the United States who had fought for this outcome.[32]

34. On 10 January 2003 the United States Secretary of the Navy certified in writing to Congress that, as planned, the Navy and the Marine Corps would cease military training on Vieques on 1 May 2003, after which they would use alternative training sites in the south-eastern United States and at sea.[33] The Puerto Rican Governor stated that this constituted a victory for the island and for the persevering people of Vieques. She immediately appointed a Committee to coordinate the closing of the firing range. For their part, officials and protesters on Vieques expressed jubilation and stated that once the exercises were over they would transfer their energies to demanding that the Navy and the Department of the Interior assess the environmental damage of the past 60 years and commit to a thorough clean-up of the area. On 13 January 2002 the Navy began its last military exercises over Vieques, involving aerial bombing from fighter jets using inert munitions. Throughout the following days there were further arrests of protesters, as well as tense confrontations between the protesters and supporters of the pro-statehood PNP who maintained that the Navy should stay.[34]

35. On 30 April 2003 the Department of the Navy announced in a special news release that it had transferred all property on the eastern end of Vieques to the administrative jurisdiction of the Department of the Interior. According to the news release, the Department of the Navy retained responsibility for the environmental clean-up of the property and would also demolish and remove all facilities and

structures in the area. According to media reports, the official end of the Navy's presence on Vieques on 1 May 2003 was followed by four days of activities celebrating the end of the bombing and the start of a new future for the island.[35]

36. Following the withdrawal of the Navy from Vieques, three related issues remain to be clarified: (a) the future development of Vieques and its environmental clean-up after more than 60 years of military exercises, (b) definitive conclusions regarding the effects of the military exercises on the health of Vieques residents and (c) the future of the Roosevelt Roads Naval Station on the main island of Puerto Rico.

37. Regarding the development of Vieques, the Puerto Rican Government has announced infrastructure and job creation investments of $50 million over the next four years within the Renacer Viequense programme.[36] At the same time, the island is attracting new tourism ventures such as the recently opened 156-room Wyndham Martineau Bay Hotel.[37] It is reported that after the Navy pulls out, nearly half of Vieques, some 16,000 acres, will remain in federal hands. The Puerto Rican Government has made it clear that it expects federal authorities to clean up former Navy lands, and the Administrator of the Environmental Protection Agency (EPA) has reportedly stated that EPA will ensure that the Department of Defense complies with federal environmental laws. EPA is expected to work with the Navy to assess the environmental damage, to develop strategies for dealing with existing contamination and to conduct the clean-up, a task that could take two to five years.[38] Current plans call for most of Camp García, a 12,000-acre military area to be transferred to the Department of the Interior to manage as a wildlife refuge, which would call for a lower standard of clean-up than if it were developed for public use, while the 900-acre live impact bombing area will be fenced off and access permanently denied. In June 2002 it was announced that 3,100 acres relinquished by the United States Navy in 2001 could be held in joint jurisdiction by the Department of the Interior's Fish and Wildlife Service and the Puerto Rican Government.[39] However, there are increasing calls from within Puerto Rico for territorial authorities to win title to at least some of the former Navy lands. In January 2003 the leader of PIP, Rubén Berrios (who spent more than a year protesting outside Camp García), urged the Governor to seek an amendment to the federal law that transfers the land to the Department of the Interior, to ensure that it is never again used for military purposes, is cleansed of environmental hazards and can be given to the Puerto Rican people.[40] In April 2003 Puerto Rico's representative to the United States Congress obtained further assurances from the Department of Defense that the Navy would clean up its lands.[41]

38. Regarding the possible effects of the military exercises on the health of Vieques residents, the debate continues between the Navy, which maintains that its bombing and training exercises have done nothing to harm the health of Vieques residents, and those who maintain that there have been abnormally high cancer rates and other health hazards on the island. While Puerto Rican Health Department statistics indicate that Vieques cancer rates were about 26 per cent above Puerto Rico's average throughout much of the 1980s and early 1990s, in October 2002 the Puerto Rican Health Secretary announced that a study was examining a variety of potential causes of cancer, including diet and limited health-care facilities, as well as the Navy exercises. Local concern about potential health risks became very apparent in November 2002, when Milivy Adams Calderón, a five-year-old girl from Vieques, died in Philadelphia Children's Hospital after battling cancer for several

years. The child, who had become a symbol for those protesting the Navy exercises and after whom one of the protest camps had been named, was honoured at a mass in San Juan and a funeral on Vieques, which were attended by hundreds of people. Protesters continue to question the Pentagon about the use of chemical weapons in Vieques during the 1960s and about recent revelations that a Navy destroyer that was sunk off Vieques, the *USS Killen*, took part in Pacific Ocean nuclear explosion tests in the 1950s.[42] In the meantime, a study conducted by the federal Agency for Toxic Substances and Disease Registry on potential pathways of contamination between the Navy bombing range and the civilian area about 16 kilometres away concluded in December 2002 that there was no apparent public health hazard.[43] Further studies are being conducted.

39. The third related issue is the future of the Roosevelt Roads Naval Station, home to the United States Naval Forces Southern Command, which was built in 1941 on the eastern tip of Puerto Rico, seven miles from Vieques Island. Covering 8,612 acres, it employs some 4,800 permanent staff and temporary contractors and is estimated by the Navy to inject more than $300 million into the local economy each year. Fears over the closing of the base arose from statements by the Commander in Chief of the Atlantic Fleet, Admiral Robert Natter, who suggested in January 2003 that without Vieques the Roosevelt Roads facilities would no longer be necessary.[44] The final decision, which will be made by an independent commission and require congressional approval, is not expected before 2005. Governor Calderón has declared that her Administration will lobby for the Roosevelt Roads base to remain open, as have Puerto Rican congressmen in the United States. Meanwhile, economists are raising the possibility of Roosevelt Roads being used for tourism ventures or as the perfect site for the trans-shipment project Port of the Americas, which is scheduled to be built in Ponce.[45]

C. Economic

40. Puerto Rico has an industrialized economy with particular characteristics derived from its island geography and close institutional links to the United States. Puerto Rico's per capita gross domestic product is reported to be $11,200 whereas that of the United States is reported to be $36,300.[46] Economic performance is closely tied to the United States business cycle, its tax regime and the level of federal transfers. The manufacturing sector, which includes operations in pharmaceuticals, electronics and scientific and precision instruments, accounts for more than 39 per cent of the gross domestic product, while agriculture contributes less than 1 per cent. Industrialization was encouraged by the Industrial Incentive Act of 1954, which granted concessions to North American companies that located plants on the island. In addition, section 936 of the United States Federal Tax Code provided generous tax incentives to such companies, including the right to tax-free repatriation of profits. Throughout the years, these policies helped to make Puerto Rico an "offshore manufacturing outpost"[47] of the United States, transforming the economy from a sugar-dominated Caribbean plantation economy to a modern industrialized one. However, in 1996 a budget-conscious United States Congress adopted legislation that would begin phasing out these tax incentives as part of its budget reconciliation and abolish them entirely by 2007. In addition, labour-intensive manufacturing of textile products and clothing has declined as a result of overseas competition. Thus, a major challenge for Puerto Rico's economic policy

over the past several years has been to prepare the economy for the effects of the phase-out of section 936 tax exemptions by reducing the island's dependence on manufacturing and promoting the development of the high-technology and tourism sectors in particular.

41. Upon being elected Governor in November 2000, Sila Calderón undertook to reduce poverty in Puerto Rico by promoting rapid economic growth. To do this she assembled a team of technocrats from the private and public sectors, but ruled out raising taxes to cover Puerto Rico's public debt and its government deficit. Calderón's 2002 budget, presented in March 2001, totalled expenditures of $20.6 billion. The 2003 budget, presented to Puerto Rico's Congress in February 2002, totalled $21.85 billion. It included an extensive programme of public works to improve infrastructure and create jobs, an overhaul of the health system and a flat pay raise of $100 per month for all public-sector workers. The money for this, and to eradicate the $600 million fiscal deficit inherited from the previous administration, was to be raised by cutting non-essential expenditures, clamping down on corruption and increasing taxes on alcohol, tobacco and vehicles. Calderón also launched a campaign to bring high-technology industries into a "techno-economic corridor", revive the tourist industry[48] and increase commercial links within the Caribbean region.

42. Macroeconomic figures now indicate that heightened United States demand and a high level of business and consumer confidence lifted Puerto Rico's annual average growth rate to 3.1 per cent in the period 1997-2001, from 2.5 per cent in the previous 15 years. However, in the second half of 2000 the local economy slowed, and it later slipped into a shallow recession following the events of 11 September 2001 in the United States. By mid-2002 there were no clear signs of recovery.[47] In August 2002 the Governor announced a $2 billion investment in infrastructure and public works for the 2002-2003 fiscal year as part of a total $6 billion investment package for the next four years. However, these public works, including the trans-shipment Port of the Americas at Ponce, a Convention Centre in San Juan and other, lower profile, projects, are getting off to a slow start. Gross national product is expected to grow by 2.5 per cent in 2002-2003, with construction and tourism outperforming other sectors. In addition, the banking sector (though still recovering from money-laundering scandals such as that which affected its largest bank, the Banco Popular de Puerto Rico), is performing well, having taken advantage of interest rate cuts by the United States Federal Reserve. Nonetheless, the economic outlook is clouded by the possibility of a rise in energy prices resulting from United States military action in Iraq, a further slowdown in tourism and uncertainties over the sustainability of consumer spending and debt levels. In January 2003 the Governor announced during a private enterprise forum that, within the framework of long-term economic strategies for Puerto Rico, her Administration was preparing an economic contingency plan in the event of a war.[49] Further economic uncertainty has arisen, with the possibility of the closure of the Roosevelt Roads military base, one of Puerto Rico's largest employers (see para. 39 above).

43. Throughout 2002 Governor Calderón continued her lobbying of the United States Congress to modify tax legislation in order to bring new companies to the island. Reportedly, during the previous congressional session, she had submitted to the Ways and Means Subcommittee of Congress and the Finance Committee of the Senate a proposal that would amend section 956 of the Internal Revenue Code and, essentially, recreate Section 936 as it was before the Federal Government decided to

eliminate most of the tax exemptions. Thus, for companies setting up subsidiaries in Puerto Rico as controlled foreign corporations, the tax payable on profit remittances to the mainland would be cut from 35 per cent to 10 per cent or less. The proposal has not received much support from Congress or the Treasury Department, as it is expected to cost the Treasury $32 billion over the next 10 years. It is reported that the Calderón Administration is negotiating amendments that would reduce the cost to the United States by some $21 billion.[50]

IV. Previous action taken by the United Nations

A. General

44. Since 1953 the United States of America has maintained a consistent position regarding the status of Puerto Rico and the competence of United Nations organs to examine that status, based on General Assembly resolution 748 (VIII) of 27 November 1953, by which the General Assembly released the United States from its obligations under Chapter XI of the Charter of the United Nations. Since then, the United States has maintained that Puerto Rico has exercised its right to self-determination, has attained a full measure of self-government, has decided freely and democratically to enter into a free association with the United States and is therefore, as stated explicitly in resolution 748 (VIII), beyond the purview of United Nations consideration.

45. Information on action taken by United Nations bodies with respect to Puerto Rico prior to 1974 is contained in the 1973 report of the Rapporteur (A/AC.109/L.976). Information since then can be found as follows: A/AC.109/L.1191 and Add.1 (for 1974 to 1976); A/AC.109/L.1334 and Add.1-3 (for 1977 and 1978); A/AC.109/L.1436 (for 1979 to 1981); A/AC.109/L.1572 (for 1981 to 1985); A/AC.109/1999/L.13 (for 1984 to 1998); A/AC.109/2000/L.3 (1999); A/AC.109/2001/L.3 (2000); and A/AC.109/2002/L.4 (2001).

B. Action taken by the Special Committee

46. At its 1st meeting, on 12 February 2002, by adopting the suggestions relating to the organization of work put forward by the Chairman (see A/AC.109/2002/L.2), the Special Committee decided to take up as appropriate the item entitled "Special Committee decision of 21 June 2001 concerning Puerto Rico" and to consider it at plenary meetings.

47. At its 5th meeting, on 10 June 2002, the Chairman of the Special Committee drew attention to a number of communications received from organizations requesting to be heard on Puerto Rico by the Committee. At the same meeting, the Special Committee agreed to accede to those requests and heard the representatives of the organizations concerned at its 5th and 6th meetings, as indicated below (see A/AC.109/2002/SR.5 and SR.6):

5th meeting

Jaime Ruberté (Colegio de Abogados de Puerto Rico); Jorge Farinacci García (Frente Socialista); Carlos Vizcarrondo Irizarry (Chamber of Representatives of Puerto Rico); Manuel González (Partido Nacionalista de Puerto Rico); Reverend Luis Barrios (San Romero de las Américas Church); Fernando Martín García (Puerto Rican Independence Party); Ismael Guadalupe (Committee for the Rescue and Development of Vieques); Edwin Pagán (ProLibertad Freedom Campaign); Juan Mari Bras (Causa Común Independentista, Proyecto Educativo Puertorriqueño); Betty Brassell (United for Vieques, Puerto Rico); Julio Muriente Pérez (Nuevo Movimiento Independentista Puertorriqueño); Héctor L. Pesquera (Congreso Nacional Hostosiano); Frank Velgara (Vieques Support Campaign); Wilfredo Santiago Valiente (United Statehooders Organization of New York); Elsie Valdés (Puertorriqueños ante la ONU); Haydée Rivera (Puertorriqueños Pro Estadidad); and Luis Vega Ramos (PROELA).

6th meeting

Nelson W. Canals (Gran Oriente Nacional de Puerto Rico); Anita Vélez Mitchell (Primavera); José Adames (Al Frente); Nilda Luz Rexach (National Advancement for Puerto Rican Culture); Roger Calero (Socialist Workers Party); and Vanessa Ramos (American Association of Jurists).

48. At the 5th meeting, the representative of Cuba introduced draft resolution A/AC.109/2002/L.8. At the 6th meeting, statements were made by the representatives of Venezuela, Iraq and the Islamic Republic of Iran. Also at that meeting, the Special Committee adopted resolution A/AC.109/2002/22 without a vote, and a statement in explanation of position was made by the representative of Chile. Subsequently, the representative of Cuba made a statement.

C. Action taken by the General Assembly

49. During the fifty-seventh session of the General Assembly, no draft resolution was submitted on this issue to the Assembly for action. Introducing the report of the Special Committee at the 73rd meeting of the Assembly, on 11 December 2002, the Acting Chairman of the Special Committee recalled that, at the end of its session, the Committee had adopted a resolution on Puerto Rico by consensus.

Notes

[1] EFE newswire, 18 October 2001.

[2] Economist Intelligence Unit, Puerto Rico Country Profile 2002.

[3] Ivonne Acosta, *La Mordaza: Puerto Rico, 1948-1957* (Rio Piedras, Editorial Edil, 1989), p. 13.

[4] Ratification was contingent on the elimination of section 20 of the proposed Bill of Rights, which recognized, inter alia, rights to social protection in the event of unemployment, sickness, old age or disability, the right to obtain work, the right to an adequate standard of living and the rights of mothers and children to special care and assistance (José Trias Monge, *Puerto Rico: The Trials of the Oldest Colony in the World* (New Haven, Yale University Press, 1997), pp. 114 and 117).

[5] www.whitehouse.gov/news/releases/2001/04.

[6] www.puertorico-herald.org/issues/2002/vol9n09/WashUpdate.

[7] *The Washington Post*, 15 August 2001, and *The New York Times*, 24 January 2002.

[8] *Financial Times*, 25 March 2002.

[9] www.fortaleza.gobierno.pr, 18 June 2002. One of the three laws established the Office of the Attorney General with functional and financial autonomy to investigate crime in the Territory; the second, known as the Código de Ética de Contratistas, regulates the conduct of all those who provide services to the Government; and the third established the Registro Uniforme de Licitadores, which stipulates the conditions that must be met by all entities that bid for public contracts.

[10] Press release, Sila María Calderón, 28 June 2000.

[11] Mensaje de la Gobernadora, Celebración del Cincuentanario de la Constitución del Estado Libre Asociado, 25 de julio de 2002.

[12] Cámara de Representantes, resolución 3873, 25 de abril de 2002.

[13] *The San Juan Star*, 8 October 2002.

[14] Associated Press, 15, 17 and 24 February 2003.

[15] Information from lawyer Jan Susler provided by Congreso Nacional Hostosiano, 2 May 2002.

[16] www.boricuanacional.org.

[17] *Newsday*, 23 July 2000.

[18] *ACLU News*, 19 July 2000.

[19] *The Miami Herald*, 6 June 2001.

[20] Jaime Ruberté, President of the Colegio de Abogados de Puerto Rico, speaking before the Special Committee, 10 June 2002.

[21] *Caribbean Insight*, 12 January 2001.

[22] *The New York Times*, 20 January 2001.

[23] EFE, 13 June 2001.

[24] Reuters, 14 June 2001.

[25] *Newsday*, 28 June 2001.

[26] *The New York Times*, 29 July 2001, and *Chicago Sun-Times*, 31 July 2001.

[27] Reuters, 17 October 2002, and www.fortaleza.gobierno.pr, 26 October 2001.

[28] EFE, 17 November and 11 and 12 December 2001.

[29] Economist Intelligence Unit, ViewsWire, 25 January 2002, and *The New York Times*, 2 April 2002.

[30] *El Nuevo Día*, 7 April 2002.

[31] Associated Press, 9 April 2002 and 16 January 2003.

[32] www.fortaleza.gobierno.pr, comunicados, 20 October 2002.

[33] Pentagon news release, 10 January 2003 and Reuters, 10 January 2003.

[34] Associated Press, 10-16 January 2003.

[35] www.news.navy.mil, 30 April 2003 and Associated Press, Reuters and *The New York Times*, 1 May 2003.

[36] www.fortaleza.gobierno.pr, 6 June 2002 and 20 October 2002.

[37] Associated Press, 25 February 2003.

[38] WOW News, 11 December 2002, and *Puerto Rico Herald*, 28 January 2003.

[39] www.fortaleza.gobierno.pr, 6 June 2002, and *The Miami Herald*, 8 June 2002.

[40] Associated Press, 14 January 2003.

[41] www.house.gov/acevedo-vila, 2 April 2000.

[42] Reuters, 20 November 2002.

[43] Agency for Toxic Substances and Disease Registry, communiqué, 18 December 2002.

[44] Associated Press, 11 and 16 January 2003.

[45] Caribbean Business, 23 January 2003, and Associated Press, 14 February 2003.

[46] Central Intelligence Agency, *World Factbook*, 2002.

[47] Economist Intelligence Unit, Puerto Rico Country Profile 2002.

[48] Oxford Analytica, 22 February 2002.

[49] Caribbean Business, 16 January 2003.

[50] *Puerto Rico Herald*, 31 January 2003.